

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
DOMINGO OJEDA,

Plaintiff,

-against-

METROPOLITAN TRANSPORTATION AUTHORITY,

Defendant.
-----X

COMPLAINT

**PLAINTIFF DEMANDS
TRIAL BY JURY**

Plaintiff, DOMINGO OJEDA, by his attorney, PHILIP J. DINHOFER, LLC, complaining of the defendant, respectfully shows to this Court and alleges:

1. The action herein arises under the Federal Employers' Liability Act (45 U.S.C. Sec. 51, et seq.), as hereinafter more fully appears.

2. Upon information and belief and at all times herein mentioned, the defendant, METROPOLITAN TRANSPORTATION AUTHORITY was a Public Authority, duly organized and existing under and by virtue of the laws of the State of New York and authorized to do business within the jurisdiction of this Court.

3. At all time herein after, the defendant, METROPOLITAN TRANSPORTATION AUTHORITY, was engaged in interstate commerce by rail and operated a system of railroads and railroad yards within the jurisdiction of this court and in various states.

4. That on or prior to October 2, 2013 the Defendant, METROPOLITAN TRANSPORTATION AUTHORITY, employed the plaintiff, DOMINGO OJEDA, as a Police Officer, under its direction and control and in furtherance of its business with interstate commerce.

5. That on, and for many years prior to, October 2, 2013, the defendant, METROPOLITAN TRANSPORTATION AUTHORITY owned, leased, maintained, operated, controlled, supervised and/ or otherwise assigned its police officer's to work at a certain railroad property, more

specifically the Metro-North Commuter Railroad Harrison Station, Harrison, New York, and more particularly the West side parking lot situated thereat, which included the tracks, rails, switches, sidings, train cars, roadbeds and appurtenances thereto, over through and upon which the defendant operated its engines, trains and cars under its direction and control.

6. That on or about October 2, 2013 while the plaintiff, DOMINGO OJEDA, was in the performance of his duties as a Police Officer at or near the aforesaid location he was caused to sustain severe and disabling injuries by the reason of the negligence, carelessness, recklessness of the defendant as herein set forth.

7. That the said accident and resulting injuries to the plaintiff were caused solely by reason of the negligence, carelessness and recklessness of the defendant, its agents, servants and/or employees' in failing to exercise due care and diligence; in failing to provide plaintiff with a safe place to work and safe equipment with which to work; in failing to promulgate safety rules and procedures for activities carried out by their personnel at the aforesaid place; in failing to warn plaintiff of the existence of the dangers involved in the performance of his duties as a Police Officer; in failing to provide the plaintiff with the necessary and proper tools and equipment with which to work; in failing to make proper and adequate provisions for the safety of plaintiff; in failing to inspect, maintain and keep in good repair the premises, parking lot and adjacent properties of the aforesaid location; in failing to provide plaintiff with the necessary manpower, tools and equipment with which to effect a lawful arrest; in negligently assigning the plaintiff to perform a job task for which he was improperly equipped to do; in failing to provide plaintiff with an appropriate and timely backup; in failing to equip and/or provide plaintiff with a suitable, appropriate and/or timely transport for his arrestee; in failing to take heed of prior similar events; in failing to inspect, maintain and keep in good repair the said location, premises, parking lot and adjacent properties of the aforesaid location; in that the defendant failed to promulgate and enforce proper and safe rules

for the safe conduct of the work operations of the railroad and the defendant was otherwise generally negligent under the circumstances.

8. That the said injuries were occurred while the plaintiff was acting in furtherance of interstate commerce, or in work substantially affecting the same.

9. That the plaintiff, DOMINGO OJEDA was damaged thereby in the sum of FIVE MILLION (\$5,000,000.00) DOLLARS.

WHEREFORE, plaintiff, DOMINGO OJEDA, demands judgment against the defendant, METROPOLITAN TRANSPORTATION AUTHORITY, in the sum of FIVE MILLION (\$5,000,000.00) DOLLARS, together with the costs and disbursements of this action.

Dated: Rockville Centre, New York
January 2, 2016

Philip J. Dinhofer

By: Philip J. Dinhofer, #6940
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